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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Letter dated 27 February 2014 from the Permanent Mission of Sri Lanka to the United Nations Office at Geneva and other international organizations in Switzerland addressed to the President of the Human Rights Council

I have the honour to refer to my meeting with you on 24 February 2014 and note verbale issued by my Mission on the same date and addressed to the Office of the President of the Human Rights Council on the position of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the request made by the Government of Sri Lanka on 12 February 2014 to publish its comments on the report of the Office of the High Commissioner on promoting reconciliation and accountability in Sri Lanka (A/HRC/25/23) as an addendum to the said report.

I wish to put on record that, while the comments of the Government of Sri Lanka on the report of the Office of the High Commissioner were published on 24 February 2014 as a "G document" under the heading "Communications from Governments" by OHCHR, the Mission did not submit a written request to OHCHR to publish its comments as a G document, nor has the Mission accepted this course of action as a "compromise". In fact, on being asked to submit a written request to publish the comments of Sri Lanka as a G document by OHCHR on 19 and 21 February 2014, I explicitly refused to do so.

The above-detailed action by OHCHR to issue the comments of the State concerned as a G document is therefore without prejudice to our request to OHCHR to publish the comments of the Government of Sri Lanka as an addendum to the report (A/HRC/25/23). In the above context, the position on this issue as detailed in our note verbale of 24 February 2014 remains valid, and is annexed hereto for information and ease of reference.**

I reiterate that OHCHR has not provided information on specific rules governing addenda or on the submission of comments by States as the country concerned on reports of the High Commissioner and the Secretary-General, despite specific requests to do so by the Mission of Sri Lanka. OHCHR has in this regard referred to "practice". While there is clear

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precedent with regard to publishing the comments of the country concerned as addenda in the case of country reports of the High Commissioner and the Secretary-General on two occasions in 2013, OHCHR has referred to these instances as "errors" on its part.

I therefore respectfully submit that there is lack of clarity and transparency with regard to the rules governing addenda and submissions of comments by States on the reports of the High Commissioner and the Secretary-General.

The inability to reflect the comments of the Government of Sri Lanka on the report (A/HRC/25/23) as an addendum has seriously impeded the visibility and integrity of subject between the report and the comments by the State.

I would therefore be appreciative if you could address the above-mentioned issue in consultation with the Bureau with a view to seeking an equitable solution in accordance with the rules of procedure and the institution-building package (Human Rights Council resolution 5/1, annex).

I would also like to request that the present letter and the annexed communication of the Mission of Sri Lanka be circulated as a document of the twenty-fifth session of the Human Rights Council in the official languages of the United Nations.

(*Signed*) Ravinatha P. Aryasinha

Ambassador, Permanent Representative

Annex

Note verbale dated 24 February 2014 from the Permanent Mission of Sri Lanka to the United Nations Office at Geneva and other international organizations in Switzerland addressed to the Office of the President of the Human Rights Council

The Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the President of the Human Rights Council and has the honour to refer to the Meeting today of H.E. Ambassador Ravinatha Aryasinha with President of the Council H.E. Ambassador Baudelaire Ndong Ella on issues concerning the position of the OHCHR on the request made by the Government of Sri Lanka to publish its Comments on the 'Report of the Office of the United Nations High Commissioner for Human Rights on Advice and Technical Assistance for the Government of Sri Lanka on Promoting Reconciliation and Accountability in Sri Lanka' (A/HRC/25/23) as an Addendum to the Report under reference. The Comments by the Government of Sri Lanka on the OHCHR draft Report have been placed as a 'G document' under 'Communications from Governments' on the OHCHR website bearing document number (A/HRC/25/G/9).

The Permanent Mission of Sri Lanka has informed the OHCHR of existence of precedent to publishing the Comments of the State as Addenda in the case of the OHCHR report on Sri Lanka (A/HRC/22/38/Add.1) and the UNSG's report on the Islamic Republic of Iran (A/HRC/22/48/Add.1) in 2013.

The OHCHR has in response indicated that the two Addenda published in 2013 in relation to HC / SG country reports were 'errors' on their part, and referred to 'practice' by way of rationalizing their position on procedure governing Addenda on HC/SG country reports.

The OHCHR has not provided information on specific rules governing Addenda as well as rules governing the submission of Comments by states as country concerned on reports of HC/SG, despite specific requests to do so by the Sri Lanka Mission.

The Permanent Mission of Sri Lanka therefore respectfully submits to the President of the Council that there is lack of clarity and transparency with regard to rules governing Addenda, as well as submission of Comments by states on reports of HC/SG. There is also lack of clarity on which division is holistically dealing with this issue in the OHCHR, i.e., whether it be the Human Rights Council Branch, the Meetings and Documentation Unit, or the High Commissioner's Office.

The Permanent Mission of Sri Lanka would therefore appreciate if the President of the Council could kindly discuss this issue in the upcoming Bureau Meeting as well as the Meeting of the Bureau with Regional and Political Coordinators, given its wider relevance to states on rules of procedure of the Council.

It is the Government of Sri Lanka's considered view that what matters is the integrity of subject between the report of HC/SG and the comments by the state. In this regard, by subsuming the Comments of the Government of Sri Lanka as a 'G document', the integrity of the Report (A/HRC/25/23) to the Comments by the State is impeded, as well as the visibility of the latter.

As agreed at the Meeting, the Comments of the Government of Sri Lanka bearing document number A/HRC/25/G/9 is annexed herewith for circulation.

The Permanent Mission of Sri Lanka to the United Nations Office in Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the President of the Human Rights Council the assurances of its highest consideration.